

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ASHISH S. PANDYA,

Plaintiff,

-against-

SECURITIES AND EXCHANGE
COMMISSION,

Defendant.

Case No.: 1:23-cv-11180 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

On February 12, 2025, Plaintiff filed a Notice of Appeal from the Clerk's Judgment dated January 13, 2025, *see* Dkt. 30. Dkt. 31. Plaintiff also moved for an extension of time to file a notice of appeal, Dkt. 32, and for leave to appeal *in forma pauperis* (IFP), Dkt. 33.

Because Plaintiff filed his notice of appeal thirty days after the Clerk's Judgment was entered, the notice is timely. *See Fed. R. App. P. 4(a)(1)* ("[T]he notice of appeal . . . must be filed with the district clerk within 30 days after entry of the judgment . . . or 60 days . . . if one of the parties is . . . a United States agency."). Accordingly, Plaintiff's motion for extension of time is DENIED as moot.

Regarding the IFP motion, the Court does not find that Plaintiff has "demonstrate[d] that [he] cannot 'pay or give security for the costs and still be able to provide himself and dependents with the necessities of life.'" *Rosa v. Doe*, 86 F.4th 1001, 1008 (2d Cir. 2023) (emphasis omitted) (quoting *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948)) (applying 28 U.S.C. § 1915). Plaintiff's IFP application indicates that he has significant cash savings and a household income well above the federal poverty line. *See* Off. of the Assistant Sec'y for Plan. & Evaluation, *Poverty Guidelines*, U.S. Dep't Health Hum. Servs., <https://aspe.hhs.gov/poverty> (last visited Feb. 14, 2025); *cf. Rosa*, 86 F.4th at 1005 (noting that the Second Circuit has "appl[ied] the *Adkins* standard to hold that the financial condition of a plaintiff whose income

was less than the federal poverty level warranted leave to proceed *in forma pauperis*" (citing *Potnick v. E. State Hosp.*, 701 F.2d 243, 244 (2d Cir. 1983))). Moreover, Plaintiff fully paid the requisite filing fees with this Court and has indicated that he intends "to pay the Docket fee" on appeal, Dkt. 33 at 7, indicating that Plaintiff's "financial condition [does not] preclude[] him from prepaying the costs" of his suit on appeal, *Rosa*, 86 F.4th at 1010. For these reasons, Plaintiff's motion for leave to proceed IFP is DENIED.

The Clerk of Court is respectfully directed to terminate the motions pending at Dkts. 32 and 33.

Dated: February 14, 2025
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge